REMARKS

Presently, claims 114-154 are pending in the application. Dependent claims 149-154 have been added. Support for the features of new claims 149-154 may be found, for example, in Fig. 1 and at page 21, line 12 – page 22, line 10 of the specification. Accordingly, no new matter has been added to the application by the foregoing amendments.

Prior Art Rejection – § 102(e)

The Examiner rejected has rejected claims 114-148 under 35 U.S.C. §103(e) as being anticipated by U.S. Patent No. 5,758,257 to Herz *et al.* ("Herz"). The Examiner contends that Herz discloses all features of Applicants' claimed invention. Applicants respectfully traverse this rejection.

Herz discloses a system and method for scheduling broadcast of video programs using customer profiles. In Herz, a selection of video and television broadcast programs is customized for users based on user profiles determined through matrix matching techniques and algorithms (i.e., the Agreement Matrix). Herz utilizes objective consumer profiles which may be determined through known information about the customer and/or by using default profiles. Herz updates the customer profiles through passive and/or active feedback from the customers and then applies such information to an Agreement Matrix to determine that customer's likes and dislikes based on other customer profiles, and thus the program(s) that would be most desirable for that customer.

For a rejection under § 102(e) to be proper, a reference must disclose, either explicitly or inherently, each and every element of the claimed invention. Applicants respectfully submit that Herz does not teach each and every element recited in independent claim 114.

Independent claim 114 recites:

> In a video network, a computer-implemented method of inferring the gender of a viewer, the method comprising:

(a) monitoring viewer interactions with a multimedia device to create a viewing record;

(b) <u>applying one or more heuristic rules</u> to the viewing record, wherein the heuristic rules assign <u>a probabilistic measure of gender</u> based on one or more aspects of the viewing record; and

(c) <u>inferring the gender of the viewer</u> based on the probabilistic measure. (emphasis added)

In contrast to the Examiner's assertion at pages 3-4 of the present Office Action, Applicants respectfully submit that Herz does not disclose applying one or more heuristic rules...[that] assign a probabilistic measure of gender based on one or more aspects of the viewing record." The Examiner points to column 22, lines 15-55, of Herz in support of this notion. Initially, Applicants notes that column 22, line 19 is the only place in Herz that mentions "heuristic".

However, the cited portion of Herz is directed to the <u>scheduling</u> aspect of Herz's system – not to <u>assigning probabilistic measures of gender based on heuristic rules</u> and/or inferring gender of the viewer based on the probabilistic measure. That is, Herz's system may separately accomplish the task of assigning days and time slots to the video programs using "heuristic methods". The scheduling process has nothing to do with how customer profiles, preferences or likes and dislikes are determined. Nowhere does Herz disclose that "heuristic rules" are used to assign a probabilistic measure of gender. Rather, Herz's system updates profile and preference information based on passive and active feedback from the customer, and then compares that information via an Agreement Matrix to ascertain that customer's likes and dislikes. Such a process is not indicative of the use of heuristic rules to infer gender.

Moreover, Herz does not disclose any rules (heuristic or otherwise) that assign "a probabilistic measure of gender" based on the viewing record. That is, although Herz teaches that a viewer's preferences or profile may be compared to profiles of other viewers (e.g., the Agreement Matrix), Herz's system does not apply rules to one or more customers to arrive at a probabilistic conclusion about the <u>gender</u> of customers of those customers. Additionally, Herz simply analyzes data about one viewer's interactions and

draws direct conclusions about that viewer's preferences. Thus, although Herz determines a viewer's preferences and information about the viewer based on the customer's observed interactions (i.e., passive feedback) and stated preferences (i.e., questionnaires and active feedback), Herz does not at all <u>infer</u> the viewer's gender. Stated differently, just because it is determined that a customer prefers a particular program, does not mean that that the system determined that the customer is female. Thus, Herz also does not teach or suggest "inferring the gender of the viewer based on the probabilistic measure." Accordingly, independent claim 114 is believed to be allowable over Herz.

Independent claim 121 recites "applying one or more <u>heuristic rules</u> to the viewing record, wherein the heuristic rules <u>assign a probabilistic measure of gender</u> based on the viewing record." Similarly, independent claim 128 recites "applying one or more <u>heuristic rules</u> to the viewing record, wherein the heuristic rules <u>assign a probabilistic measure of gender</u> based on the number of channel changes in the time period." Claims 121 and 128 both also recite "<u>inferring the gender</u> of the viewer based on the probabilistic measure." For the same reasons discussed above with respect to independent claim 114, Applicants respectfully submit that Herz does not disclose all of the features of independent claims 121 and 128. Accordingly, independent claims 121 and 128 are allowable over Herz.

Independent claims 132, 139 and 145 each recite similar steps as independent claims 114, 121 and 128, respectively. However, independent claims 132, 139 and 145 recite the steps of "applying <u>heuristic rules</u> that assign a probabilistic measure of <u>income</u>...; and inferring the <u>income</u> of the subscriber based on the probabilistic measure." The distinctions over Herz with respect to "gender" are applicable to "income". Thus, for the same reasons discussed above with respect to independent claim 114, Applicants respectfully submit that Herz does not disclose the invention of independent claims 132, 139 and 145. Accordingly, independent claims 132, 139 and 145 are allowable over Herz.

Dependent claims 115-120, 122-127, 129-131, 133-138, 140-144 and 146-154 are allowable at least by their dependency on independent claims 114, 121, 128, 132, 139 and 145, respectively. Reconsideration and withdrawal of the Examiner's rejection of claims 114-148 are respectfully requested.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully submit that the Examiner's rejection has been overcome, and that the application, including claims 114-154, is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejection and an early Notice of Allowance are respectfully requested.

Respectfully submitted,

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